

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 DEREK CARDER, et al.,

12 Plaintiff,

13 vs.

14
15 CONTINENTAL AIRLINES, INC.,

16 Defendant.

CASE NO. 09cv1448 DMS (BLM)

**ORDER GRANTING EX PARTE
APPLICATION EXTEND TIME
TO ANSWER OR OTHERWISE
RESPOND TO THE COMPLAINT
PENDING DETERMINATION OF
FORTHCOMING MOTION TO
TRANSFER TO THE SOUTHERN
DISTRICT OF TEXAS PURSUANT
TO 28 U.S.C. § 1404**

17
18 Pending before the Court is Defendant's *ex parte* application to extend time to answer or
19 otherwise respond to the complaint pending determination of a forthcoming motion to transfer to the
20 Southern District of Texas, pursuant to 28 U.S.C. § 1404. (Doc. 6.) Defendant's deadline to answer
21 or otherwise respond is due on July 28, 2009.

22 Defendant indicates that it will file the motion to transfer on or before August 4, 2009. It asks
23 the Court to: (1) extend the time to respond for 30 days after the case is transferred, in the event the
24 Court grants the forthcoming motion to transfer; or (2) extend the time to respond for 30 days after the
25 motion is denied, if it is denied. In the alternative, it proposes two fixed dates: (1) a 120-day extension
26 from July 28, 2009; or (2) a 30-day extension, in the event the Court declines to extend time to respond
27 pending determination of the motion to transfer. It argues the extension is warranted given interests
28 of judicial administration and because it requires additional time to investigate the Complaint.

1 Plaintiffs argue that Defendant has failed to show good cause for an extension, because “neither
 2 the Federal Rules nor section 1404 of Title 28 of the United States Code discuss or even remotely
 3 suggest that a motion to transfer warrants stalling the pending action.” (Oppo. at 4.) Moreover,
 4 Plaintiffs argue that Defendant has not shown that it needs the additional time to complete its
 5 investigation of the Complaint’s allegations.

6 The Court disagrees. “For the convenience of parties and witnesses, in the interest of justice,
 7 a district court may transfer any civil action to any other district or division where it might have been
 8 brought.” 28 U.S.C. § 1404(a). A transfer for “convenience” under § 1404(a) should be sought as
 9 soon as the “inconvenience” becomes apparent, *SEC v. Savoy Industries, Inc.*, 587 F.2d 1149, 1156
 10 (DC Cir. 1978), and such a motion may be filed with or before the first responsive pleading, *Vaz*
 11 *Borrvalho v. Keydril Co.*, 696 F.2d 379, 386 (5th Cir. 1983), *overruled on other grounds by In re Air*
 12 *Crash Disaster near New Orleans*, 821 F.2d 1147, 1163 n.25 (5th Cir. 1987). “Making such a motion
 13 at the inception of the action may save the court and the parties from expending time and resources
 14 on a case which belongs in a different forum.” 17 Moore’s Federal Practice, § 111.17 (Matthew
 15 Bender 3d ed. 2009). Defendant has shown good cause to extend its deadline to respond pending
 16 determination of the forthcoming motion to transfer. The ex parte application is therefore granted.

17 Plaintiffs desire to prosecute this action in an expeditious and efficient manner. To that end,
 18 Plaintiffs offered to stipulate to an extension of 15 days, which Defendant refused. This is a
 19 reasonable period of time for Defendant to respond following resolution of its motion to transfer.

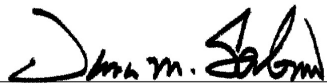
20 Accordingly,

21 1. Defendant shall file its motion to transfer pursuant to 28 U.S.C. § 1404(a) on or before
 22 August 4, 2009;

23 2 Defendant’s answer or response to Plaintiffs’ Complaint shall be due 15 days following
 24 entry on the docket of this Court’s order on the motion to transfer.

25 **IT IS SO ORDERED.**

26 DATED: July 23, 2009

27 
 28 HON. DANA M. SABRAW
 United States District Judge